

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHIKEB SADDOZAI,
Plaintiff,

v.

KENNEDY BENJAMIN RINEY,
Defendant.

Case No. 18-04492 BLF (PR)

ORDER OF DISMISSAL

Plaintiff, a state prisoner proceeding *pro se* filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On December 10, 2019, the Court found the second amended complaint, Dkt. No. 25, liberally construed, stated a cognizable Fourth Amendment claim against Defendant Officer Kennedy B. Riney of the Daly City Police Department. Dkt. No. 29 at 2-3.¹ The Court ordered the matter served on Defendant, directing him to file a dispositive motion or notice regarding such motion. *Id.* On April 14, 2020, the Daly City Police Department filed a Statement Noting Death of Defendant Officer Riney, who passed away on March 18, 2018. Dkt. No. 36. Because the statement was not served on Plaintiff, the Court ordered the Clerk to serve a copy of the Statement Noting Death of

¹ In the same order, the Court dismissed Plaintiff's claims under HIPAA and the ADA for failure to state a claim. Dkt. No. 29 at 3-4.

Defendant on Plaintiff along with a copy of its order on April 16, 2020. Dkt. No. 37. Plaintiff was advised to attempt to locate Defendant Riney's successor or representative, and then request the Court order the Marshal to serve them with a statement noting the death of Defendant Riney. *Id.* at 3. Plaintiff was also advised that because Defendant Riney had not yet been served in this action, the claims against him may be subject to dismissal under Rule 4(m) of the Federal Rules of Civil Procedure. *Id.* Plaintiff was given ninety days from the date the order was filed to respond. *Id.* at 5.

The time to comply has passed, and Plaintiff has failed to provide any information regarding service of this action on Defendant Riney's successor or representative. Therefore, the claims against Defendant Riney are **DISMISSED** without prejudice under Rule 4(m) of the Federal Rules of Civil Procedure.


CONCLUSION

For the foregoing reasons, Plaintiff's claims against Defendant Kenney Benjamin Riney are **DISMISSED** without prejudice under Rule 4(m). There remaining no other claims in this matter, the entire case is **DISMISSED**.

The Clerk shall terminate any pending motions as moot and close the file.

IT IS SO ORDERED.

Dated: August 21, 2020


BETH LABSON FREEMAN
United States District Judge